

ESTTA Tracking number: **ESTTA653045**

Filing date: **01/29/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92059305
Party	Defendant Theodore A Stoner
Correspondence Address	MATTHEW H SWYERS THE TRADEMARK COMPANY PLLC 344 MAPLE AVE W, STE 151 VIENNA, VA 22180 UNITED STATES mswyers@TheTrademarkCompany.com
Submission	Opposition/Response to Motion
Filer's Name	Matthew H. Swyers
Filer's e-mail	mswyers@thetrademarkcompany.com
Signature	/Matthew H. Swyers/
Date	01/29/2015
Attachments	Opposition to Motion to Compel.pdf(168603 bytes) Opposition to Motion to Compel Exhibits.pdf(1269027 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

In the matter of U.S. Registration 3,700,403
For the mark BONGO BI-LINGO BUDDY
Registered on the Principal Register on October 20, 2009

MWR Holdings, LLC,	:	
	:	
Petitioner,	:	
	:	
vs.	:	Cancellation No. 92059305
	:	
Stoner, Theodore A.,	:	
	:	
Registrant.	:	

OPPOSITION TO MOTION TO COMPEL

COMES NOW the Registrant Theodore A. Stoner (hereinafter “Registrant”) by and through counsel, The Trademark Company, PLLC, and files the instant Opposition to the Motion to Compel filed by Petitioner MWR Holdings, LLC’s (hereinafter “Petitioner”), stating as follows:

STATEMENT OF FACTS

1. On or about June 5, 2014 Petitioner instituted the instant Cancellation Proceeding.
2. On or about July 14, 2014 Registrant, through counsel, filed Registrant’s Answer and Grounds of Defense to the allegations contained in the Petition to Cancel.
3. During the Discovery Conference held in this matter on or about August 5, 2014 Counsel for Applicant and Opposer agreed to service of all pleadings in the proceeding by U.S. Mail.
4. On or about September 12, 2014 new counsel for Petitioner appeared.

5. On or about January 12, 2015 Registrant received a letter dated December 16, 2014 from Petitioner following up on Registrant's responses to discovery requests that the letter claims were served on October 2, 2014. *See* Exhibit 1.

6. On January 12, 2015 counsel for Registrant sent an email to Counsel for Petitioner notifying them that Counsel for Registrant had never received the discovery requests served on October 2, 2014. *See* Exhibit 2.

7. On or about January 15, 2015 Counsel for Petitioner responded with an email to Counsel for Registrant requesting a confirmation of the correspondence information and whether Counsel for Registrant had received previous correspondence from Counsel for Petitioner. *See* Exhibit 3.

8. On January 15, 2015 Counsel for Registrant responded with an email notifying Counsel for Petitioner that Counsel for Registrant had received Counsel for Petitioner's Notice of Appearance and Petitioner's Initial Disclosures in the past and requesting Petitioner to resend the discovery requests. *See* Exhibit 4.

9. On or about January 19, 2015 Counsel for Petitioner sent Registrant an email protected under the Federal Rules of Evidence § 408 conveying Petitioner's discovery requests and notifying Counsel for Registrant that a Motion to Compel had been filed on January 9, 2015. *See* Exhibits 5 – 8 (Registrant has redacted the information protected pursuant to the Federal Rules of Evidence in Exhibit 5).

10. Registrant, by counsel, now timely files the instant Opposition to Petitioner's Motion to Compel Discovery.

ARGUMENT

During the Discovery Conference held in this matter on or about August 5, 2014 Counsel for Petitioner and Counsel for Registrant agreed to service of all pleadings in the proceeding by U.S. Mail. Due presumably to the recent holiday season, Counsel for Registrant did not receive notice that Petitioner planned to file a Motion to Compel if they did not receive a response to discovery requests that were purported to have been served on October 2, 2014 prior to the deadline set out in the letter of December 23, 2014. Registrant's failure to timely respond to Petitioner's good faith effort to receive answers to Petitioner's discovery requests was inadvertent as Counsel for Registrant only became aware of the discovery requests on or about January 12, 2015, when a letter from Counsel for Petitioner dated December 16, 2014 was received by mail on or about January 12, 2015. Moreover, Registrant's failure to timely serve its response to Petitioner's discovery requests was not as a result of willful conduct or gross neglect on the part of the Registrant as Registrant did not receive Petitioner's Discovery Requests until January 19, 2015 after requesting a full and complete copy of the same from Petitioner. Once the full and complete copy was received Counsel for Registrant responded to Petitioner's Request for Production of Documents and Request for Admissions; however, in a review of the discovery requests that were sent on January 19, 2014 and attached to the instant Motion to Compel filed on January 9, 2015, Registrant notes that the Interrogatories appear to consist of Instructions, Definitions, and then jumps to page 8 of what appears to be Document Requests and therefore cannot answer the same. *See Exhibit 6.*

In the instant Motion to Compel, Petitioner requests that the Board compel Registrant to respond to Petitioner's Interrogatories, Request for Production of Documents, and Request for Admissions. In response, Registrant has served, upon Counsel for Petitioner today, Registrant's

Responses to Petitioner's First Set of Requests for Production of Documents and Registrant's Responses to Petitioner's First Set of Requests for Admissions along with a request for a complete set of Interrogatories. As such, Registrant respectfully submits that Petitioner's Motion to Compel should be denied and Petitioner ordered to re-serve its discovery upon Registrant.

Conclusion

WHEREFORE for good cause considered, the Applicant, by counsel, respectfully requests that the Board reject the Opposer's Motion to Compel in the instant case.

Respectfully submitted this 29th day of January, 2015.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/

Matthew H. Swyers, Esq.

344 Maple Avenue West, PBM 151

Vienna, VA 22180

Tel. (800) 906-8626

Facsimile (270) 477-4574

mswyers@TheTrademarkCompany.com

Counsel for Registrant

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

In the matter of U.S. Registration 3,700,403
For the mark BONGO BI-LINGO BUDDY
Registered on the Principal Register on October 20, 2009

MWR Holdings, LLC,	:	
	:	
Petitioner,	:	
	:	
vs.	:	Cancellation No. 92059305
	:	
Stoner, Theodore A.,	:	
	:	
Registrant.	:	

CERTIFICATE OF SERVICE

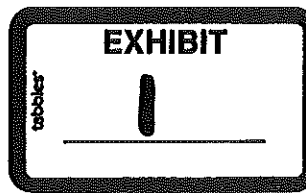
I HEREBY CERTIFY that I caused a copy of the foregoing this 29th day of January,
2015, to be served, via first class mail, postage prepaid, upon:

William W. Stroeve
Greenberg Traurig, LLP
200 Park Ave
Florham Park, NJ 07932

/Matthew H. Swyers/
Matthew H. Swyers



William W. Stroever
Associate
973-443-3524 – Tel.
973-295-1291 – Fax
stroeverw@gtlaw.com



December 16, 2014

VIA UPS

Mr. Matthew H. Swyers, Esq.
The Trademark Company PLLC
344 Maple Ave., W., Suite 151
Vienna, VA 22180

Re: MWR Holdings, LLC v. Theodore A. Stoner
Cancellation No. 92059305
Our ref: 135518.021200

Dear Mr. Swyers:

On October 2, 2014, Petitioner served a set of discovery requests on Registrant. The deadline for responses to those requests has now come and gone, and your client has failed to respond in any way. Please let us know whether we can expect a response to these discovery requests. If we do not receive any reply to this letter by Tuesday, December 23, 2014, we will not hesitate to take all necessary action to protect our client's interests. If you have any questions, please do not hesitate to contact us.

Sincerely,

GREENBERG TRAURIG, LLP

A handwritten signature in black ink, appearing to be "W. Stroever", written over a horizontal line.

By: William W. Stroever

Shannon Strayhorn

From: Shannon Strayhorn <sstrayhorn@thetrademarkcompany.com>
Sent: Monday, January 12, 2015 5:57 PM
To: 'stroeverw@gtlaw.com'
Subject: MWR Holdings, LLC vs. Theodore A. Stoner; Your Ref: 135518.021200

Mr. Stroever,

Thank you for your letter dated December 16, 2014. Please allow this email to confirm that we have now received the same. However a review of our records indicate that, unfortunately, we never received the discovery requests that you served on October 2nd. We apologize for the delay but, if you would, please resend those discovery requests at your convenience. Additionally, to avoid a repeat of this situation, please send us an electronic copy of the same.

Thank you,

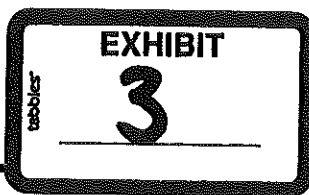
Shannon Strayhorn

Trademark Specialist
The Trademark Company, PLLC
2703 Jones Franklin Road, Suite 206
Cary, NC 27518
Phone (800) 906-8626 x111
Fax (919) 861-5278
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Shannon Strayhorn

From: stroeverw@gtlaw.com
Sent: Thursday, January 15, 2015 11:42 AM
To:sstrayhorn@thetrademarkcompany.com
Subject: RE: MWR Holdings, LLC vs. Theodore A. Stoner; Your Ref: 135518.021200

Ms. Strayhorn,

Thank you for your email. Can you please let us know whether you received any of our other letters or phone calls regarding this case? Please also let us know whether the correspondence information listed with the TTAB for this case is accurate: 344 Maple Ave W., Suite 151, Vienna, VA 22180. Thank you for your help.

Regards,

William Stroever
Associate
Greenberg Traurig, LLP | 200 Park Avenue | Florham Park, NJ 07932-0677
Tel 973.443.3524 | Fax 973.295.1291
stroeverw@gtlaw.com | www.gtlaw.com



From: Shannon Strayhorn [<mailto:ssrayhorn@thetrademarkcompany.com>]
Sent: Monday, January 12, 2015 5:57 PM
To: Stroever, Willie (Assoc-NJ-IP-Tech)
Subject: MWR Holdings, LLC vs. Theodore A. Stoner; Your Ref: 135518.021200

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Shannon Strayhorn

From: Shannon Strayhorn <sstrayhorn@thetrademarkcompany.com>
Sent: Thursday, January 15, 2015 4:50 PM
To: 'stroeverw@gtlaw.com'
Subject: RE: MWR Holdings, LLC vs. Theodore A. Stoner; Your Ref: 135518.021200

Mr. Stroever,

The address listed with the TTAB is correct and we have received documents in the past from your office, namely your Notice of Appearance and Petitioner's Initial Disclosures, however we must assume the discovery requests were lost in the mail as we did not receive them. Sorry about the confusion this has caused but, if you would, please resend the same we will get them out to our client to be answered.

Best regards,
Shannon

From: stroeverw@gtlaw.com [<mailto:stroeverw@gtlaw.com>]
Sent: Thursday, January 15, 2015 11:42 AM
To: [sstrayhorn@thetrademarkcompany.com](mailto:ssstrayhorn@thetrademarkcompany.com)
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Sent: Monday, January 12, 2015 5:57 PM
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Thank you,

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Shannon Strayhorn

From: stroeverw@gtlaw.com
Sent: Monday, January 19, 2015 11:31 AM
To: sstrayhorn@thetrademarkcompany.com
Subject: RE: MWR Holdings, LLC vs. Theodore A. Stoner; Your Ref: 135518.021200
Attachments: 228803295_v 1_MWR - 1st Rgs to Stoner.PDF; 228803292_v 1_MWR - 1st RFPD to Stoner.PDF; 228803290_v 1_MWR - 1st RFA to Stoner.PDF

SUBJECT TO FED. R. EVID. 408

Shannon,

On October 2, 2014, we served the attached discovery requests on your client at the address below. We received no response. On December 16, 2014, we sent a follow-up letter (which you received), asking when we could expect to receive a response to our discovery requests. You did not provide a timely response to that letter, or ask at that time for an additional copy of the discovery requests. Instead, we were forced to file a Motion to Compel, which we did on January 9, 2015. Notably, a copy of the discovery requests was also attached to that Motion as an exhibit. Only now, after that Motion, have you alleged that you did not receive the discovery requests.

For the sake of good order, we note that this email is being sent without prejudice to our client's claims or defenses, all of which are expressly reserved. Please confirm that you have received this email and the three attachments.

Regards,

William Stroever
Associate
Greenberg Traurig, LLP | 200 Park Avenue | Florham Park, NJ 07932-0677
Tel 973.443.3524 | Fax 973.295.1291
stroeverw@gtlaw.com | www.gtlaw.com



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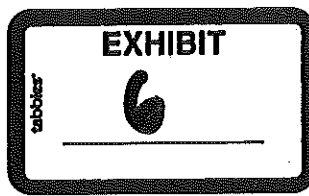
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

MWR HOLDINGS, LLC,

Petitioner,

v.

THEODORE A. STONER,

Registrant.

Cancellation No. 92059305

Mark: BONGO BI-LINGO BUDDY

Reg. No.: 3,700,403

Registered: October 20, 2009

PETITIONER'S FIRST INTERROGATORIES TO REGISTRANT

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rules 26 and 33 of the Federal Rules of Civil Procedure, Petitioner MWR Holdings, LLC ("MWR"), by its undersigned counsel, hereby requests that Registrant Theodore A. Stoner ("Stoner") answer the following interrogatories in writing and under oath, within thirty (30) days of the date of service hereof.

These interrogatories seek information as of the date of response and, as to those interrogatories addressed to matters falling within Rule 26(e)(1) & (2) of the Federal Rules of Civil Procedure, shall impose a continuing obligation on Registrant to serve upon Petitioner such further answers promptly after Registrant has acquired such knowledge.

I. INSTRUCTIONS

1. There shall be a continuing duty on Registrant to furnish additional documents in response to these document requests in accordance with Rule 26(e) of the Federal Rules of Civil Procedure.

2. All documents must be produced in a form that renders them susceptible to copying.

3. Each document should be segregated and identified by the request to which it is primarily responsive or produced as it is kept in the usual course of business.

4. If you are unable to comply fully with any request herein, comply to the extent possible and provide a detailed explanation as to why full compliance is not possible.

5. All requests herein are directed to those documents within your possession, custody or control, or within the possession, custody or control of your agents, servants and employees and your attorneys. They are also directed to those firms, corporations, partnerships, or trusts that you control and to documents in the possession, custody or control of employees, agents and representatives of such entities.

6. If any document called for is not available or accessible, is no longer in existence, or is withheld under a claim of privilege of protection against discovery, give the following information for that document:

- a. The name and title of the author(s);
- b. The name and title of each person to whom the document was addressed;
- c. The name and title of each person to whom a copy of the document was sent, directed, circulated, or distributed;
- d. The date of the document;
- e. The number of pages;

f. A brief description of the nature and subject matter of the document in sufficient detail to permit other parties to this action to assess the applicability of the asserted privilege or immunity;

g. The paragraph(s) of the request to which the document is responsive;

h. The name of each person now in possession of the document or any identical or non-identical copy;

i. The basis of the claim, privilege or protection against discovery (if applicable);

j. The reasons why the document is not available or accessible (if applicable); and

k. The reason why a document is no longer in existence (if applicable).

7. All electronic documents and records produced must be produced with an explanation sufficient to render the records and information intelligible.

II. DEFINITIONS

1. "And" and "or" shall be construed conjunctively or disjunctively, whichever makes the requests more inclusive. The term "all" shall mean "any and all," and the term "any" shall mean "any and all." The singular of any word or phrase shall include the plural of such word or phrase, and the plural of any word or phrase shall include the singular of such word or phrase.

2. The term "Communications" means any oral or written transmittal, correspondence, and/or receipt of words or information, whether such was by chance,

pre-arranged, formal or informal, and specifically includes but is not limited to conversations in person, telephone conversations, telegrams, telexes, facsimiles, letters, emails, reports or memoranda, formal statements, newspaper stories, notes of telephone conversations, notes of meetings, data compilations, and electronically stored data. References to Communications with business entities shall be deemed to include Communication with all officers, directors, employees, agents, attorneys or other representatives of such entities.

3. The term "Document" shall mean and include any type of written, recorded, electronic, graphic or photographic matter of any kind or character, however produced or reproduced. The term thus includes, without limiting the generality of the foregoing, all photographs, sketches, drawings, videotapes, audiotapes, letters, telegrams, telexes, facsimiles, electronic mail, correspondence, brochures, manuals, press releases, transcripts of interviews, transcripts of speeches, product guides, contracts, consulting agreements, other agreements, business plans, deeds, drafts, work papers, plans, blueprints, specifications, comparisons, surveys, data sheets, analyses, calculations, files (and their contents), notes to the files, reports, publications, mechanical and electronic sound recordings or transcripts thereof, calendar or diary entries, memoranda of telephone or personal conversations or of meetings or conferences, maps, studies, reports, charts, interoffice communications, minutes of meetings, articles, announcements, ledgers, vouchers, checks, receipts and invoices, tax records and forms, court pleadings and papers, discovery requests and responses including originals and copies of any of the foregoing, and any material underlying, supporting or used in preparing any Document.

4. The term "Entity" includes organizations, corporations, partnerships, associations, joint ventures and any other individual or group of individuals which has the purpose of conducting business.

5. The word "Identify", or any variation of the word Identify, shall mean to specify the full name; present position and business affiliation; last known physical address (including apartment number, if applicable); email address; telephone number and facsimile number with respect to a Person. In the case of a company, the word Identify shall mean to specify the name; officers or other persons having knowledge of the matter with respect to which the company is named; place of incorporation; address and principal place of business. In the case of a "document", the word Identify shall mean to specify the persons originating and preparing it; the sender; its general type (e.g., letter, memo, report, invoice, etc.); title; identifying number; general nature of its subject matter; addressees and recipients; date(s) of preparation; dates and manner of transmission, distribution and publication; location of each copy (including title, index number and location of the file in which it is kept or from which it was removed); present custodian or person responsible for its filing or other disposition; and persons who can authenticate or Identify it and, if privilege against production is claimed, the specific basis therefore and a complete specification and description of every fact upon which the claim of privilege is based.

6. The term "Person" includes any natural person, firm, association, organization, partnership, business, trust, governmental entity, joint venture, corporation or public entity. Additionally, the singular and plural forms are used interchangeably, as are the masculine and feminine forms.

7. The terms “Petitioner” or “MWR” means MWR Holdings, LLC, and shall include any officers, directors, corporate parents, subsidiaries, affiliates, predecessors or successors of MWR Holdings, LLC, as well as any employees, partners, agents, sales representatives, attorneys and all other persons acting or purporting to act on behalf of said entities, inclusively.

8. The terms “Registrant” or “Stoner” mean Theodore A. Stoner, and shall include any employees, representatives, agents, heirs, successors and assigns of Theodore A. Stoner, as well as any other persons acting or purporting to act on behalf of said entities, inclusively.

9. A Document “Refers” to a subject if, for example, it constitutes, comprises, describes, sets forth, reflects, analyzes, refers to, evidences, comments upon, mentions, is connected to, discusses, contains data relating to, or pertains to the subject.

10. As used herein, “Registrant’s Mark” refers to the mark identified in Registrant’s Trademark Registration, Reg. No. 3,700,403, namely, BONGO BI-LINGO BUDDY.

11. The term “Registrant’s Services” shall refer to each of the services identified in Registrant’s Trademark Registration, Reg. No. 3,700,403, namely: “Entertainment in the nature of live theatrical performances by mixed media of live characters, puppetry and animation for children; Organizing cultural events for children; Education services, namely, providing professional training in the field of bilingual learning.”

12. The term “Petitioner’s Mark” shall refer to the mark identified in Petitioner’s Trademark Application, Serial No. 86/146,757, namely BONGO BEAR.

12. All documents and things concerning any trademark searches done by or on behalf of Registrant with respect to Registrant's Mark.

13. All documents and things concerning any trademark searches done by or on behalf of Registrant with respect to Petitioner's Mark.

14. All agreements, licenses, contracts, consents to use, correspondence or other documents concerning or authorizing use of Registrant's Mark by a third party.

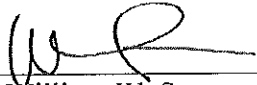
15. All documents and things concerning any administrative proceeding, or civil action in the United States involving Registrant's Mark.

16. All documents and things containing the phrase "Bongo Bi-Lingo Buddy".

17. All documents and things supporting or justifying any denial by Registrant of any of Petitioner's First Requests for Admission.

Dated: October 2, 2014

GREENBERG TRAURIG, LLP

By: 
William W. Stroeve
200 Park Avenue
P.O. Box 677
Florham Park, NJ 07932-0677
Tel. 973-443-3524
Fax 973-295-1291
stroevevw@gtlaw.com

Attorneys for Petitioner
MWR Holdings, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing First Interrogatories to Registrant has been served on Theodore A. Stoner by mailing said copy on October 2, 2014, via First Class Mail, postage prepaid to:

Matthew H. Swyers
The Trademark Company PLLC
344 Maple Ave. W, Suite 151
Vienna, VA 22180


Susan Schuchard



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

MWR HOLDINGS, LLC,

Petitioner,

v.

THEODORE A. STONER,

Registrant.

Cancellation No. 92059305

Mark: BONGO BI-LINGO BUDDY

Reg. No.: 3,700,403

Registered: October 20, 2009

**PETITIONER'S FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS
TO REGISTRANT**

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rules 26 and 33 of the Federal Rules of Civil Procedure, Petitioner MWR Holdings, LLC ("MWR"), by its undersigned counsel, hereby requests that Registrant Theodore A. Stoner ("Stoner") serve a written response to this request within thirty (30) days of the date of service of this request as provided in said Rules, and that Registrant produce the documents and things specified below for inspection and copying by Petitioner at the offices of Greenberg Traurig, LLP, 200 Park Avenue, P.O. Box 677, Florham Park, NJ 07932.

I. INSTRUCTIONS

1. There shall be a continuing duty on Registrant to furnish additional documents in response to these document requests in accordance with Rule 26(e) of the Federal Rules of Civil Procedure.

2. All documents must be produced in a form that renders them susceptible to copying.

3. Each document should be segregated and identified by the request to which it is primarily responsive or produced as it is kept in the usual course of business.

4. If you are unable to comply fully with any request herein, comply to the extent possible and provide a detailed explanation as to why full compliance is not possible.

5. All requests herein are directed to those documents within your possession, custody or control, or within the possession, custody or control of your agents, servants and employees and your attorneys. They are also directed to those firms, corporations, partnerships, or trusts that you control and to documents in the possession, custody or control of employees, agents and representatives of such entities.

6. If any document called for is not available or accessible, is no longer in existence, or is withheld under a claim of privilege of protection against discovery, give the following information for that document:

- a. The name and title of the author(s);
- b. The name and title of each person to whom the document was addressed;
- c. The name and title of each person to whom a copy of the document was sent, directed, circulated, or distributed;
- d. The date of the document;
- e. The number of pages;
- f. A brief description of the nature and subject matter of the document in sufficient detail to permit other parties to this action to assess the applicability of the asserted privilege or immunity;

- g. The paragraph(s) of the request to which the document is responsive;
- h. The name of each person now in possession of the document or any identical or non-identical copy;
- i. The basis of the claim, privilege or protection against discovery (if applicable);
- j. The reasons why the document is not available or accessible (if applicable); and
- k. The reason why a document is no longer in existence (if applicable).

7. All electronic documents and records produced must be produced with an explanation sufficient to render the records and information intelligible.

II. DEFINITIONS

1. "And" and "or" shall be construed conjunctively or disjunctively, whichever makes the requests more inclusive. The term "all" shall mean "any and all," and the term "any" shall mean "any and all." The singular of any word or phrase shall include the plural of such word or phrase, and the plural of any word or phrase shall include the singular of such word or phrase.

2. The term "Communications" means any oral or written transmittal, correspondence, and/or receipt of words or information, whether such was by chance, pre-arranged, formal or informal, and specifically includes but is not limited to conversations in person, telephone conversations, telegrams, telexes, facsimiles, letters, emails, reports or memoranda, formal statements, newspaper stories, notes of telephone

conversations, notes of meetings, data compilations, and electronically stored data. References to Communications with business entities shall be deemed to include Communication with all officers, directors, employees, agents, attorneys or other representatives of such entities.

3. The term "Document" shall mean and include any type of written, recorded, electronic, graphic or photographic matter of any kind or character, however produced or reproduced. The term thus includes, without limiting the generality of the foregoing, all photographs, sketches, drawings, videotapes, audiotapes, letters, telegrams, telexes, facsimiles, electronic mail, correspondence, brochures, manuals, press releases, transcripts of interviews, transcripts of speeches, product guides, contracts, consulting agreements, other agreements, business plans, deeds, drafts, work papers, plans, blueprints, specifications, comparisons, surveys, data sheets, analyses, calculations, files (and their contents), notes to the files, reports, publications, mechanical and electronic sound recordings or transcripts thereof, calendar or diary entries, memoranda of telephone or personal conversations or of meetings or conferences, maps, studies, reports, charts, interoffice communications, minutes of meetings, articles, announcements, ledgers, vouchers, checks, receipts and invoices, tax records and forms, court pleadings and papers, discovery requests and responses including originals and copies of any of the foregoing, and any material underlying, supporting or used in preparing any Document.

4. The term "Entity" includes organizations, corporations, partnerships, associations, joint ventures and any other individual or group of individuals which has the purpose of conducting business.

5. The word “Identify”, or any variation of the word Identify, shall mean to specify the full name; present position and business affiliation; last known physical address (including apartment number, if applicable); email address; telephone number and facsimile number with respect to a Person. In the case of a company, the word Identify shall mean to specify the name; officers or other persons having knowledge of the matter with respect to which the company is named; place of incorporation; address and principal place of business. In the case of a “document”, the word Identify shall mean to specify the persons originating and preparing it; the sender; its general type (e.g., letter, memo, report, invoice, etc.); title; identifying number; general nature of its subject matter; addressees and recipients; date(s) of preparation; dates and manner of transmission, distribution and publication; location of each copy (including title, index number and location of the file in which it is kept or from which it was removed); present custodian or person responsible for its filing or other disposition; and persons who can authenticate or Identify it and, if privilege against production is claimed, the specific basis therefore and a complete specification and description of every fact upon which the claim of privilege is based.

6. The term “Person” includes any natural person, firm, association, organization, partnership, business, trust, governmental entity, joint venture, corporation or public entity. Additionally, the singular and plural forms are used interchangeably, as are the masculine and feminine forms.

7. The terms “Petitioner” or “MWR” means MWR Holdings, LLC, and shall include any officers, directors, corporate parents, subsidiaries, affiliates, predecessors or successors of MWR Holdings, LLC, as well as any employees, partners, agents, sales

representatives, attorneys and all other persons acting or purporting to act on behalf of said entities, inclusively.

8. The terms “Registrant” or “Stoner” mean Theodore A. Stoner, and shall include any employees, representatives, agents, heirs, successors and assigns of Theodore A. Stoner, as well as any other persons acting or purporting to act on behalf of said entities, inclusively.

9. A Document “Refers” to a subject if, for example, it constitutes, comprises, describes, sets forth, reflects, analyzes, refers to, evidences, comments upon, mentions, is connected to, discusses, contains data relating to, or pertains to the subject.

10. As used herein, “Registrant’s Mark” refers to the mark identified in Registrant’s Trademark Registration, Reg. No. 3,700,403, namely, BONGO BI-LINGO BUDDY.

11. The term “Registrant’s Services” shall refer to each of the services identified in Registrant’s Trademark Registration, Reg. No. 3,700,403, namely: “Entertainment in the nature of live theatrical performances by mixed media of live characters, puppetry and animation for children; Organizing cultural events for children; Education services, namely, providing professional training in the field of bilingual learning.”

12. The term “Petitioner’s Mark” shall refer to the mark identified in Petitioner’s Trademark Application, Serial No. 86/146,757, namely BONGO BEAR.

III. REQUESTS

1. All documents identified in response to Petitioner’s First Set of Interrogatories.

2. All documents and things concerning the prosecution of U.S. Trademark Application Serial No. 78/812,529.

3. All documents and things sufficient to identify each occasion on which Registrant has provided Registrant's Services under Registrant's Mark.

4. All documents and things concerning Registrant's alleged first use of Registrant's Mark anywhere, which purportedly occurred on June 8, 2004.

5. All documents and things concerning Registrant's alleged first use of Registrant's Mark in commerce, which purportedly occurred on June 18, 2008.

6. All documents and things concerning the creation and adoption of Registrant's Mark.

7. All documents and things concerning the occasion Registrant first became aware of Petitioner's use of Petitioner's Mark in the United States.

8. All documents and things concerning any advertising conducted by Registrant relating to Registrant's Mark.

9. All documents and things concerning the channels of trade through which Registrant provides Registrant's Services.

10. All documents and things that support Registrant's claim that it has used Registrant's Mark in connection with each of Registrant's Services in the United States.

11. All invoices, contracts, agreements, purchase orders and/or purchase receipts which reflect or evidence Registrant's use of Registrant's Mark.

12. All documents and things concerning any trademark searches done by or on behalf of Registrant with respect to Registrant's Mark.

13. All documents and things concerning any trademark searches done by or on behalf of Registrant with respect to Petitioner's Mark.

14. All agreements, licenses, contracts, consents to use, correspondence or other documents concerning or authorizing use of Registrant's Mark by a third party.


15. All documents and things concerning any administrative proceeding, or civil action in the United States involving Registrant's Mark.

16. All documents and things containing the phrase "Bongo Bi-Lingo Buddy".

17. All documents and things supporting or justifying any denial by Registrant of any of Petitioner's First Requests for Admission.

Dated: October 2, 2014

GREENBERG TRAURIG, LLP

By: _____

William W. Stroeve
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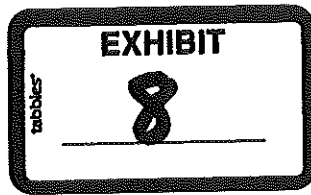
Attorneys for Petitioner
MWR Holdings, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing First Request for Production of Documents to Registrant has been served on Theodore A. Stoner by mailing said copy on October 2, 2014, via First Class Mail, postage prepaid to:

Matthew H. Swyers
The Trademark Company PLLC
344 Maple Ave. W, Suite 151
Vienna, VA 22180


Susan Schuchard



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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THEODORE A. STONER,

Registrant.

Cancellation No. 92059305

Mark: BONGO BI-LINGO BUDDY

Reg. No.: 3,700,403

Registered: October 20, 2009

PETITIONER'S FIRST REQUEST FOR ADMISSIONS TO REGISTRANT

Pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Petitioner MWR Holdings, LLC ("MWR"), by its undersigned counsel, hereby requests that Registrant Theodore A. Stoner ("Stoner"), make the following admissions within thirty (30) days after service hereof.

I. DEFINITIONS AND INSTRUCTIONS

1. "And" and "or" shall be construed conjunctively or disjunctively, whichever makes the requests more inclusive. The term "all" shall mean "any and all," and the term "any" shall mean "any and all." The singular of any word or phrase shall include the plural of such word or phrase, and the plural of any word or phrase shall include the singular of such word or phrase.

2. The term "Communications" means any oral or written transmittal, correspondence, and/or receipt of words or information, whether such was by chance, pre-arranged, formal or informal, and specifically includes but is not limited to conversations in person, telephone conversations, telegrams, telexes, facsimiles, letters,

emails, reports or memoranda, formal statements, newspaper stories, notes of telephone conversations, notes of meetings, data compilations, and electronically stored data. References to Communications with business entities shall be deemed to include Communication with all officers, directors, employees, agents, attorneys or other representatives of such entities.

3. The term "Document" shall mean and include any type of written, recorded, electronic, graphic or photographic matter of any kind or character, however produced or reproduced. The term thus includes, without limiting the generality of the foregoing, all photographs, sketches, drawings, videotapes, audiotapes, letters, telegrams, telexes, facsimiles, electronic mail, correspondence, brochures, manuals, press releases, transcripts of interviews, transcripts of speeches, product guides, contracts, consulting agreements, other agreements, business plans, deeds, drafts, work papers, plans, blueprints, specifications, comparisons, surveys, data sheets, analyses, calculations, files (and their contents), notes to the files, reports, publications, mechanical and electronic sound recordings or transcripts thereof, calendar or diary entries, memoranda of telephone or personal conversations or of meetings or conferences, maps, studies, reports, charts, interoffice communications, minutes of meetings, articles, announcements, ledgers, vouchers, checks, receipts and invoices, tax records and forms, court pleadings and papers, discovery requests and responses including originals and copies of any of the foregoing, and any material underlying, supporting or used in preparing any Document.

4. The term "Entity" includes organizations, corporations, partnerships, associations, joint ventures and any other individual or group of individuals which has the purpose of conducting business.

5. The word “Identify”, or any variation of the word Identify, shall mean to specify the full name; present position and business affiliation; last known physical address (including apartment number, if applicable); email address; telephone number and facsimile number with respect to a Person. In the case of a company, the word Identify shall mean to specify the name; officers or other persons having knowledge of the matter with respect to which the company is named; place of incorporation; address and principal place of business. In the case of a “document”, the word Identify shall mean to specify the persons originating and preparing it; the sender; its general type (e.g., letter, memo, report, invoice, etc.); title; identifying number; general nature of its subject matter; addressees and recipients; date(s) of preparation; dates and manner of transmission, distribution and publication; location of each copy (including title, index number and location of the file in which it is kept or from which it was removed); present custodian or person responsible for its filing or other disposition; and persons who can authenticate or Identify it and, if privilege against production is claimed, the specific basis therefore and a complete specification and description of every fact upon which the claim of privilege is based.

6. The term “Person” includes any natural person, firm, association, organization, partnership, business, trust, governmental entity, joint venture, corporation or public entity. Additionally, the singular and plural forms are used interchangeably, as are the masculine and feminine forms.

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representatives, attorneys and all other persons acting or purporting to act on behalf of said entities, inclusively.

8. The terms “Registrant” or “Stoner” mean Theodore A. Stoner, and shall include any employees, representatives, agents, heirs, successors and assigns of Theodore A. Stoner, as well as any other persons acting or purporting to act on behalf of said entities, inclusively.

9. A Document “Refers” to a subject if, for example, it constitutes, comprises, describes, sets forth, reflects, analyzes, refers to, evidences, comments upon, mentions, is connected to, discusses, contains data relating to, or pertains to the subject.

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12. The term “Petitioner’s Mark” shall refer to the mark identified in Petitioner’s Trademark Application, Serial No. 86/146,757, namely BONGO BEAR.

II. REQUESTS

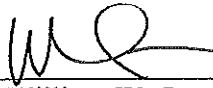
1. Admit that Registrant’s date of first use in commerce of Registrant’s Mark in the United States is June 18, 2008.

2. Admit that Registrant's date of first use anywhere of Registrant's Mark in the United States is June 8, 2004.

3. Admit that Registrant has no basis to rely on a date prior to June 8, 2004 for use of Registrant's Mark on Registrant's Services for purposes of priority.

Dated: October 2, 2014

GREENBERG TRAURIG, LLP

By: 
William W. Stroever
200 Park Avenue
P.O. Box 677
Florham Park, NJ 07932-0677
Tel. 973-443-3524
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Attorneys for Petitioner
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Susan Schuchard